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26 Pacific Development Partners X, LLC, et al.

27 UNITED STATES DISTRICT COURT

28 NORTHERN DISTRICT OF CALIFORNIA

18 ELEM INDIAN COLONY OF POMO
19 INDIANS,

Case No. C-09-01044 CRB

20 Plaintiff,

21 v.

22 PACIFIC DEVELOPMENT PARTNERS
23 X, LLC, et al.,

24 Defendants.

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1 applicable Standing Orders, as follows:

2 1. Pursuant to a prior stipulation between and among the parties to this action, the Court
 3 entered an Order in this case on April 3, 2009 that , among other things, established the following
 4 schedule for filing, briefing, and hearing of cross-motions for summary judgment:

5 Plaintiff to file motion by April 3, 2009;

6 Defendants to file an opposition and cross-motion by May 1, 2009;

7 Plaintiff to file a reply and opposition to the cross-motion by May 15, 2009;

8 Defendants to file a reply in support of their cross-motion by May 29, 2009;

9 Hearing date (subject to the availability of the Court) on June 12, 2009.

10 Plaintiff filed its motion for summary judgment on April 3, 2009. The parties now stipulate and
 11 agree, for the reasons set forth below, that each of the remaining dates on the schedule above
 12 should be advanced by one week, as follows:

13 Defendants to file an opposition and cross-motion by May 8, 2009;

14 Plaintiff to file a reply and opposition to the cross-motion by May 22, 2009;

15 Defendants to file a reply in support of their cross-motion by June 5, 2009;

16 Hearing date (subject to the availability of the Court) on June 19, 2009.

17 There has been no previous request for any modification of the Court's April 3, 2009 scheduling
 18 Order entered pursuant to the parties' prior stipulation in this case.

19 2. Defendants seek this one-week adjustment to the briefing schedule because as set forth
 20 in the accompanying Declaration of Timothy W. Bergin, named defendant Daniel J. Kerrigan, Jr.,
 21 who owns and manages Defendants Pacific Development Partners X, LLC and Pacific Tribal
 22 Partners, LLC, developed a hernia condition last week that will require surgery on April 28, 2009,
 23 and recuperation thereafter. As a result, Defendants have not been fully available, and will not be
 24 available at all for at least most of next week, for purposes of reviewing drafts of the opposition
 25 and cross-motion currently scheduled to be filed on their behalf by Friday of next week (May 1),
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or for purposes of providing and arranging for declarations in support thereof.

3. The parties further note that the Certificate of Unavailability issued by the presiding Judge on the Court's website indicates that the presiding Judge will not be available for a hearing on June 12, 2009, as contemplated by the Court's April 3, 2009 scheduling order pursuant to the parties' prior stipulation in this case. Thus, a one-week adjustment in the schedule pursuant to this stipulation would not delay the hearing on the cross-motions for summary judgment.

For the foregoing reasons, attested to in the accompanying Declaration of Timothy W. Bergin, the Court should enter the Order set forth below adopting the stipulated one-week modification of the briefing and hearing schedule previously established pursuant to stipulation in this case.

Respectfully submitted,

Karshmer & Associates

Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.

By: /s/ Mark St. Angelo

Mark St. Angelo
Attorneys for Plaintiff
ELEM INDIAN COLONY OF POMO
INDIANS

Dated: April 22, 2009

By: /s/ Timothy W. Bergin

Timothy W. Bergin
Attorneys for Defendants
PACIFIC DEVELOPMENT PARTNERS
X, LLC, et al.

Dated: April 22, 2009

ORDER

Pursuant to stipulation, IT IS SO ORDERED.

Dated: April 28, 2009

76895.1:520658:00540

No. C-09-01044 CRB: Stipulation re
Modification of Briefing Schedule

- 3 -

